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IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH

AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTEENTH DAY OF JUNE

TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR.JUSTICE R.SUBHASH REDDY

WRIT PETITION NO: 23 of 1999

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Between:

1. Reddy Appanna, S/o Appadu,
Aged 60 years, Occ: Agriculturist
R/o. Naidupalem, H/o Cheepurupalli,
Paravada Mandal, Visakhapatnam District.
2. Reddy Satyanarayana, S/o.Appanna,
Aged 35 years, Occ:Agriculturist,
R/o.Naidupalem, H/o.Cheepurupalem,
Paravada Mandalam, Visakhapatnam District. .. PETITIONERS.

AND

1. Special Deputy Collector (L.A.),
N.T.P.C. Unit (IV),
Visakhapatnam
2. Branch Manager,
State Bank of Hyderabad,
Vadacheepurupalli Branch,
Paravada Mandal, Viskhapatnam District-531 021.
3. Kundrapu Mutyalu,
S/o.Somulu, Hindu,
Aged 50 years,
R/o.Venkatapathipalem,
H/o.Cheepurupalli, Paravada Mandal,
Visakhapatnam District. .. RESPONDENTS.

Petition under Article 226 of the Constitution of India praying circumstances stated in the Affidavit filed herein the High Court will be please writ of Mandamus declaring the inaction of the 1st respondent in not fr directions of this Hon'ble Court in W.P.No.29461/98, dated 27-10-1998 in not the question of rights of petitioners and 3rd respondent in apportionment of cc

amount in award passed pursuant to the Proc.in R.C.No.11/98/RI.III, dated 11.12.98 in respect of Ac.0.50 and 0.18 cents of land out of Ac.34.00 and Ac.18.00 res: Sy.No.479/3 situated in Cheepurupalli (West) village, Paravada Mandal, Visakhapatnam, by passing an award and issuing cheques in favour of 3rd respondent on 2nd bank as being illegal, unjust, arbitrary, violative of Articles 14 and 21 of the Constitution of India and provisions of Land Acquisition Act.

Counsel for the Petitioner: E.V.Bhagiratha Rao

Counsel for Respondents 1 and 2: The Govt.Pleader for Revenue.

Counsel for the Respondent No.3: Mr.K.V.Subrahmanya Narsu.

The Court made the following:

THE HON'BLE SRI. JUSTICE R.SUBHASH REDDY

W.P.No.23 OF 1999

ORAL ORDER

This writ petition is filed seeking writ of mandamus to declare the action of the Special Deputy Collector (L.A.), N.T.P.C Unit(IV), Visakhapatnam-first respondent herein, in not following the directions of this court in W.P.No.29641 of 1998 dated 27-10-1998 and also questioning the action of the first respondent in awarding the compensation for the acquired land in favour of the third respondent.

It is the case of the petitioners that they have purchased the land admeasuring Ac.0.50 cents and Ac.0.18 cents out of Survey No.479/3, situated in Cheepurupally (West) village, Paravada Mandal, Visakhapatnam, from the third respondent and entered into an agreement of sale dated 24-02-1998 by paying an amount of Rs.10,000/- towards consideration.

On the apprehension that the Land Acquisition Officer will pass an award and pay the entire compensation to the respondent,

earlier the petitioners have filed writ petition No.29641 of 1998 and at that point of time, as no award was passed, this court has disposed of the writ petition, directing the first respondent to permit the petitioners to participate in the award enquiry pursuant to notice dated 17-04-1998 and pass award in accordance with law. In the said judgment this court has further observed that the first respondent therein shall also consider the request of the parties to refer the matter to competent Court of civil Jurisdiction for apportionment of compensation, if any such request is made by the parties.

The present writ petition is filed on the ground that in spite of directions of this court in earlier writ petition, the first respondent has not considered the claim of the petitioners and paid the compensation to the third respondent. The only ground mentioned in the affidavit filed in support of the writ petition is, the award was passed and payment made in favour of the third respondent is contrary to directions of this court in W.P.No.29641 of 1998.

Detailed counter-affidavit is filed by the second respondent stating that pursuant to orders passed by this Court in the earlier petition, the petitioners were allowed to participate in the enquiry and their claim was examined with reference to the documentary evidence filed by them and it was found that their agreement was not genuine. Further, it is stated that award passed was not in contravention of the directions issued by this court in the earlier petition and there was no positive direction either for payment of compensation infavour of the petitioners or for referring the matter to the competent Civil Court for adjudication for apportionment of the compensation.

Heard Sri E.V.Bhagiratha Rao, learned Counsel for the petitioners and learned Government Pleader for Respondents. I have pursued the copy of the judgment passed by this Court in W.P.No.29641 of 1998, dated 27-10-1998. The said writ petition was filed even before the award was passed. In the above said judgment, this Court merely directed the respondents to permit the petitioners to

participate in the award inquiry and pass appropriate award in accordance with law. Further, there was also another direction to consider the request of the parties to refer the matter to the competent Civil Court for apportionment of compensation. From a reading of the full text of the order passed by this Court in the earlier writ petition, it is clear that there is no such positive direction issued by this Court either for payment of compensation in favour of the petitioners or for referring the matter to competent Civil Court. It is evident from the counter-affidavit filed on behalf of the respondents in the present writ petition that pursuant to the directions of this Court in the earlier writ petition, the petitioners were allowed to participate in the award inquiry and the Land Acquisition Officer has examined the claims of the petitioners and also the third respondent in whose favour the award was passed. In view of the oral and documentary evidence the Land Acquisition Officer has come to a conclusion that the claim of the third respondent was genuine and passed the award and paid compensation. Even from the affidavit filed in support of the writ petition there is no indication of filing an application for seeking reference to the Civil Court. In absence of any positive direction to the Land Acquisition Officer to refer the matter to the competent Civil Court, and, as the Land Acquisition Officer has conducted inquiry and passed award infavour of the third respondents, it can not be said that the Land Acquisition Officer has passed award in contravention of the directions issued by this Court. If the earlier directions of this Court have not been complied with, it is not for the petitioners to come up with another writ petition seeking implementation of directions issued in the earlier writ petition. I do not find any valid grounds for grant of relief as sought for in the present writ petition.

Accordingly, the writ petition is devoid of merits and is dismissed. However, if the civil suit filed by the petitioners is still pending, the same shall be considered without reference to observations made by this Court in this writ petition.

ASSISTANT REGISTRAR.

//TRUE COPY//

SECTION OFFICER.

TO

1. Special Deputy Collector (L.A.),
N.T.P.C. Unit (IV),
Visakhapatnam
2. Branch Manager,
State Bank of Hyderabad,
Vadacheepurupalli Branch,
Paravada Mandal, Viskhapatnam District-531 021.
3. Two C.Ds.
4. Two C.Cs. to the Govt.Pleader for Revenue,
High Court of A.P., Hyderabad,(OUT).

TSNR/LSK

THE HON'BLE MR.JUSTICE R.SUBHASH REDDY

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ORDER

IN

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WRIT PETITION NO: 23 of 1999

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Dated: 16-06-2004